

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER RYAN MERRON,

Plaintiff,

v.

JOSIE M. CAVAGNARO,

Defendant.

No. 1:24-cv-00735 GSA (PC)

ORDER AND FINDINGS AND  
RECOMMENDATIONS

ORDER RECOMMENDING THAT  
PLAINTIFF'S IN FORMA PAUPERIS  
APPLICATION BE DENIED

(ECF No. 2)

ORDER RECOMMENDING THAT THIS  
MATTER BE DISMISSED AS  
DUPLICATIVE

PLAINTIFF'S OBJECTIONS DUE **JULY 10,  
2024**

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983 (ECF No. 1) ("Merron II") and has requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis (ECF Nos. 2, 6) (in forma pauperis application, trust account statement). This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1)(B).

For the reasons stated below, the undersigned will recommend that Plaintiff's application to proceed in forma pauperis be denied and that this matter be dismissed as duplicative of Merron v. Cavagnaro, No. 1:24-cv-00677 GSA ("Merron I"). Plaintiff will be given fourteen days to file objections to these findings and recommendations.

1 I. RELEVANT FACTS

2 On June 11, 2024, Plaintiff filed a complaint, along with an application to proceed in  
3 forma pauperis in Merron I. See Merron I, ECF Nos. 1, 2. On June 14, 2024, after Plaintiff's  
4 prison trust fund account statement had been received and reviewed (see Merron I, ECF No. 6)  
5 (trust account statement), Plaintiff's application to proceed in forma pauperis was granted in  
6 Merron I. See Merron I, ECF No. 1 at 7.

7 Days later, on June 24, 2024, the instant action, Merron II, was docketed. See Merron II,  
8 ECF No. 1 at 1 (date stamp on complaint). An application to proceed in forma pauperis, along  
9 with a prison trust fund account statement, have also been filed in this case. See Merron II, ECF  
10 Nos. 2, 6.

11 II. DISCUSSION

12 A comparison of the complaints in both matters indicates that they are identical in content.  
13 Compare Merron I, ECF No. 1, with Merron II, ECF No. 1. "Plaintiffs generally have no right to  
14 maintain two separate actions involving the same subject matter at the same time in the same  
15 court and against the same defendant." Adams v. California Dep't of Hlth. Servs., 487 F.3d 684,  
16 688 (9th Cir. 2007) (internal quotation marks omitted) (quoting Walton v. Eaton Corp., 563 F.2d  
17 66, 70 (3d Cir. 1977)). For these reasons, the undersigned will recommend that Plaintiff's  
18 application to proceed in forma pauperis filed in this case, Merron II, be denied and that this  
19 matter be dismissed as duplicative of Merron I.

20 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a  
21 District Judge to this matter.

22 IT IS FURTHER RECOMMENDED that:

- 23 1. Plaintiff's application to proceed in forma pauperis (ECF No. 2, 6) be DENIED, and  
24 2. This matter be DISMISSED as DUPLICATIVE of Merron v. Cavagnaro, No. 1:24-cv-  
25 00677 GSA.

26 These findings and recommendations are submitted to the United States District Judge  
27 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
28 after being served with these findings and recommendations, Plaintiff may file written objections

1 with the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings  
2 and Recommendations.” Plaintiff is advised that failure to file objections within the specified  
3 time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153  
4 (9th Cir. 1991).

5  
6  
7 IT IS SO ORDERED.

8 Dated: **June 26, 2024**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE